

Speaking for the dying: Life-and-death decisions in intensive care. By Susan Shapiro. Chicago: University of Chicago Press, 2019. 368 pp. \$32.00 paperback

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Law and society studies can often make a difference for their readers, but few books in our field could matter to as many people as Susan Shapiro's *Speaking for the Dying: Life-and-Death Decisions in Intensive Care*. In the last days of their lives, some 70 percent of older Americans are unable to make their own medical decisions, so someone else must decide for them. Thus, Shapiro notes, most people we know will either serve as a health care surrogate or require their services. But how do surrogates actually implement the life and death choices contained in health care directives, and what becomes of the documents during the treatment of gravely ill patients? The answers to these questions are surely of enormous significance for nearly everyone.

Speaking for the Dying is a careful and thoughtful ethnographic study of two intensive care units in a large urban midwestern hospital. The ICU is, in Shapiro's words, "ground zero for surrogate medical decision making" (7), since nearly all of the patients she observed lacked the capacity to make important decisions for themselves. Instead, siblings, spouses, parents, and children were called on to confer with the doctors and nurses and wrestle with excruciatingly difficult choices for their family members. In about a third of the cases, they had advance directives to guide them; but this is where Shapiro's study uncovered surprising results.

A great deal of law and society literature deals with decision-making—by judges, mediators, potential claimants, lawyers, and others. In this book, however, Shapiro examines decision-making by proxy, which is quite a different matter. The issue is—or should be—not what the decision-maker wants to achieve but what the patient would have wanted had she been able to speak for herself. For the surrogate to stand in the shoes of the patient and decide as she would have decided, the written directives should prove a reliable guide. But Shapiro's deeply unsettling finding is that these documents make little difference. Some were never presented to hospital staff at all; but even when they were available, they were ignored or overridden by medical personnel and sometimes by family members. We may assume that these directives serve to mitigate "the extraordinary challenges of speaking for another near his or her life's end" (232), but that assumption is simply wrong. The written directives generally do not matter. The laws meant to protect patients by safeguarding their wishes seem to have little effect. Law, Shapiro concludes, "is at best irrelevant in the ICU" (251).

Speaking for the Dying is part of a long tradition of law and society "gap studies"—research that demonstrates a disparity between the law on the books and the law in action. Gaps are found everywhere in the legal landscape, but it is hard to imagine a more consequential gap than the one Shapiro discovered between the consumer-conscious laws intended to protect the preferences of sick or injured patients and their ineffectiveness in practice. Physicians rarely consulted the surrogacy documents and generally failed to understand the law or the legal status of the designated surrogates. The best and most effective step a potential patient could take was to choose a really good proxy. The selection of a persuasive advocate was far more important than the skillful drafting of a duly executed advance directive.

Gap studies sometimes get a bad rap. They can, however, remind policymakers that laws frequently fail to achieve their intended results, and they can also point to deeper questions about why and when gaps appear in the first place. Is there a better way to achieve the stated goal? Is some different unwritten normative system at work? Is one party dominating another and preventing the law from playing its intended role? Is the law so alien that nobody sees it as helpful or friendly to their interests?

It is not entirely clear why the enormous gap exists in Shapiro's study. Why did doctors and medical staff so frequently ignore written directives, even when they were readily available? The doctors she observed did not callously dominate the patients and their families. They did actively shape decision-making for two-fifths of the surrogates (217), but generally the book shows them consulting empathetically with family members and acknowledging the importance of the family's wishes. Yet the law was not designed to validate the family members' own preferences. On the contrary, it was meant to prioritize the interests and the express wishes of the *patient* who could no longer speak for herself.

In the end, perhaps the gap arose because both doctors and patients were more accustomed to familiar scripts where they sat down together, listened to the doctor's advice, and made their decisions with the guidance of the expert. It may have felt odd and uncomfortable for them to huddle around a piece of paper and attempt to do what the patient—now unable to join the conversation—had specified long before the hospitalization. After all, the patient might have changed her mind when faced with the actual choice to terminate all medical support and accept death. Even if they believed the patient would not have changed her mind, simply following her written directions could be emotionally wrenching and leave them feeling guilty. Family members may have felt that true fidelity to a loved one meant taking all steps to keep her alive regardless of her written directive to the contrary.

This expertly crafted and finely written book raises all of these questions and many more. It is an exemplary law and society study drawing on sensitive observations, filled with human drama and emotion and rich with policy implications. It was published shortly before COVID struck, when tens of thousands of desperately ill patients were put on ventilators. Its findings could not have been more timely or more urgent.

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The shariatization of Indonesia: The politics of the Council of Indonesian Ulama (MUI). By Syafiq Hasyim. Leiden: Brill, 2023. 459 pp. \$238.00 hardcover

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Syafiq Hasyim *The Shariatization of Indonesia: The Politics of the Council of Indonesian Ulama (MUI)* provides a critical analysis of the shariatization process in Indonesia, the world's most populous Muslim country. It offers a significant conclusion that highlights the potential for a transformation from a non-theocratic state to a theocratic one when influential individuals or groups seek to alter the existing state system by influencing its legal framework. The book sheds light on the various aspects of shariatization, including historical narratives, the role of the Majelis Ulama Indonesia (Indonesian Ulama Council, MUI), ideological shifts, mobilization strategies, regional implementation, and the impact on legal discourse and practice. It underscores the importance of understanding the dynamics and implications of shariatization in Indonesia, emphasizing the need to critically examine the potential consequences of such a transition. Ultimately, the book provides valuable insights into the ongoing process of shariatization in Indonesia and its potential implications for the country's legal and political landscape. The Ulama referred to as described in this book are the men of Islamic learning (53).

The author successfully takes readers on a journey that highlights various crucial aspects relating to shariatization in Indonesia, including the historical context and narratives of Islam in Indonesian society. The book also explores MUI's ideological shifts, particularly the transition away from Pancasila (the state ideology established in 1945 by the Preparatory Committee for Indonesian Independence) since 1975 (when MUI was founded) towards MUI's version of Islam in 2000, as well as the MUI's role in responding to the Indonesian state ideology and the establishment of ulama institutions in Indonesia.